

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-056-00569R

Parcel No. 04-45-21-25-138-0060

David M. Walsh,

Appellant,

v.

Lee County Board of Review,

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 2, 2016. David Walsh was self-represented. County Attorney Mike Short represented the Lee County Board of Review.

The subject property is a two-story, residential dwelling located at 204 N 14th, Keokuk, Iowa. The dwelling was built in 1898 and has 1787 total square feet of living area; a full, unfinished basement; a deck; and an open porch. The dwelling is listed in normal condition and with average quality construction (Grade 4-00). The site is 0.094 acres.

The property's January 1, 2015, assessment was \$51,110, allocated as \$6240 in land value and \$44,870 to improvement value. David Walsh, trustee for the property owner, protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property and the property was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b).

The Assessor and Deputy Assessor inspected the property in May 2015, and although the property was listed in normal condition, they noted it had deficiencies and needed repairs. Taking this into consideration, the Board of Review reduced the assessment to \$46,350 by applying a 10% obsolescence factor.

Walsh then appealed to PAAB. He believes the subject property's correct assessment is \$30,000.

## Findings of Fact

Walsh asserts the subject property is inequitably assessed and over assessed. Walsh relies on his \$23,000 August 2014 cash purchase price to support his value opinion. He purchased the property from a bank<sup>1</sup>, which is not considered a normal arms-length transaction. (Ex F). Walsh testified at length about the subject property's condition. He reports the property is uninhabitable and need a total rehabilitation, including repair or replacement of the furnace, plumbing, drywall, lighting, electrical, flooring, bathroom, kitchen, appliances, water heater and air conditioner. (Ex. 1). He estimates these repairs will cost roughly \$25,000. (Ex. 4).

Walsh provided a spread sheet and property record cards for five area properties that he considers similar to his property, most of which had lower assessments. We note the spreadsheet Walsh provided contained some incorrect information and the following data is listed on the record cards. (Exs. 2 & 3).

Address	Yr Blt	Style	TSFLA	Base Fin	2015 AV	AV PSF
Subject	1898	2 sty	1787	Full/None	\$46,350	\$25.94
1419 Concert	1888	2 sty	1868	½ /None	\$26,180	\$14.01
214 N 14th	1898	1 ½ sty	1887	¾ /205	\$46,820	\$24.81
1409 Concert	1888	2 sty	2125	½ /None	\$45,450	\$21.39
1327 Concert	1920	2 sty	1622	½ /None	\$37,080	\$22.86
209 N 14th	1920	2 sty	1026	Full/None	\$25,970	\$25.31

All of the properties are two-story dwellings like the subject. However, they are all in below-normal condition, which is inferior to the subject's normal condition. In addition, four of the properties have partial basements. These differences lead us to question whether the compared dwellings are similar to the subject property. Moreover,

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The sales condition code used for his purchase was #12, which designates, "A forced sale, foreclosures, forfeitures, Sheriff's and Tax Sales, or transfers arising from default" on the Department of Revenue, *Sales Condition Code for Contract and Deed Sales Effective 8/31/15*.

we note that only one property, located at 1419 Concert, sold in 2014. The sale was a bank sale, which is not a normal arms-length transaction. Moreover, one comparable sale is insufficient to develop an assessment/sales ratio for equity analysis.

Walsh also prepared a spreadsheet of recent sales in Keokuk that he believed are comparable to his property; however, only two of these sales were normal transactions compared to abnormal sales such as foreclosures. Since the subject sale and other sales involve abnormal sales conditions, the sales ratio they yield are not reliable indicators of value. The two normal sales are summarized in the following chart. (Exs. 5 & 6)

Address	Grade	TSFLA	2015 AV	Sale Price	Sales Ratio	Sale Conditions
Subject	4-00	1787	\$46,350	\$14,500	N/A	Foreclosure/Sheriff Sale
1027 Leighton	4+00	1269	\$41,830	\$30,000	139.43%	Normal
1102 Seymour	4+05	1970	\$73,600	\$44,500	165.39%	Normal

The ratios for the two normal sales suggest the properties are over-assessed; however, we have little information verifying the actual sale condition for these transactions.

As previously noted, the Board of Review considered the subject property's condition and lowered the assessment. The Board of Review also relied on a list of 2014 and 2015 sales in support of its decision. (Exs. A-F). We note, the property at 532 Franklin was a sale between landlord and tenant, and the property at 725 N 14th has an abnormal sale condition as well. These sale conditions may have distorted the sale price.

Address	Yr Blt	TSFLA	2015 AV	Sale Price	\$ PSF	Sales Ratio
Subject	1898	1787	\$46,350	N/A	N/A	N/A
723 N 12th	1898	1732	\$60,750	\$65,000	\$35.08	93.46%
618 N 9th	1911	1662	\$67,630	\$68,000	\$40.69	99.46%
523 Franklin	1890	3190	\$64,340	\$60,000	\$20.17	107.23%
725 N 14th	1888	1374	\$47,900	\$50,000	\$34.86	95.80%
627 Exchange	1900	1867	\$67,200	\$62,500	\$35.99	107.52%

The sale prices range from \$20.17 to \$40.69 per-square-foot, with a median of \$35.08 per-square-foot. The subject's assessed value of \$25.94 per-square-foot is at the lower

end of the range. The median assessment/sales ratio (99.46%) indicates the selected properties are assessed at market value.

## **Conclusions of Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). In this case, Duster did not shift the burden, and therefore, must prove the assessment is inequitable based upon a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or must be adjusted to eliminate the effect of factors, which distort market value. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than

other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

First and foremost, the subject property’s purchase price in August 2013 is not a reliable indicator of its value as Walsh admitted it was purchased from a bank. This type of purchase is considered an abnormal transaction under Iowa Assessment law, § 441.21(1)(b). Only if the abnormal sale can be adjusted can it be considered, and Walsh has offered no evidence to suggest this sale would not require adjustment. Moreover, a sale from August 2013 is somewhat removed from the January 2015 assessment date.

Additionally, Walsh offered no evidence of the subject’s fair market value, such as an appraisal, comprehensive market analysis, or recent sales of comparable properties. Because Walsh purchased the subject property from a bank, we do not consider the purchase price a reliable indication of value. Because there is no evidence of the subject’s market value, we were unable to develop an assessment/sales ratio for

Walsh's property as required by *Maxwell* to complete the equity analysis. The sales ratio completed by the assessor's office supports the assessments. (Ex. G). Similarly, the lack of this evidence means Walsh has not established the subject is assessed for more than authorized by law.

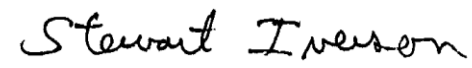
### **Order**


IT IS THEREFORE ORDERED that the Lee County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 30th day of March, 2016.

  
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Jacqueline Rypma, Presiding Officer

  
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Stewart Iverson, Board Chair

  
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Karen Oberman, Board Member

Copies to:

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